



United States
Department of
Agriculture

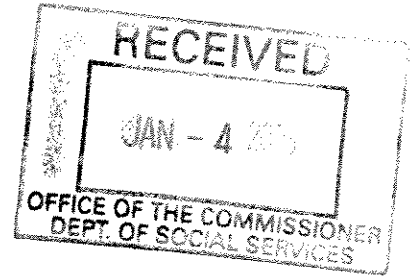
Food and
Nutrition Service

Mid-Atlantic Region

300 Corporate Blvd
Robbinsville, NJ
08691-1598

DEC 29 2004

The Honorable Maurice Jones
Commissioner
Department of Social Services
7 North Eighth Street
Richmond, VA 23219-3301



Dear Commissioner Jones:

As you requested in your November 19, 2004 letter, we have reviewed the document "Public-Private Education and Infrastructure Facilities Act of 2002 (PPEA) – Instructions to Proposers" which you indicate will be used as the procurement process under PPEA.

You stated that Virginia had developed these guidelines based on guidelines provided by the Federal Department of Health and Human services. In reviewing the information you provided against OMB Circular A-102 §___.36, Federal Regulations 7 CFR Subtitle B Subchapter 1 Part 3016.36 and FNS Handbook 901 Section 8010, we concluded that this process appears to meet the requirements cited.

As we understand your process, unsolicited proposals submitted are subject to a \$5,000 filing fee and if accepted for review, an additional \$45,000 review fee. If Virginia decides to pursue the unsolicited proposal and advertises for competing proposals, each enterprise filing a competing proposal must also pay a \$50,000 fee. Your procedure also clearly states that no fees will be charged for solicited proposals.

FNS Handbook 901, based on the requirements of the OMB Circular and Federal Regulations, mandates that States observe general automated data processing procurement standards. These include maintaining a code of conduct; providing contracting opportunities for small and minority firms, women's business enterprises, and labor surplus firms; maintaining free and open competition; utilizing prescribed procurement methods. All State agency procurements must be conducted in a manner that provides for maximum free and open competition. States should have written procedures that do not unduly restrict or eliminate competition. States should be aware of the Federal regulations regarding how contracting applies to such concerns as small and minority business firms, women's business enterprises, and labor surplus area firms. State agencies must take affirmative steps to ensure that such businesses are utilized, when possible, as sources of supplies, equipment, and services.

We thank you for the information you have provided and the opportunity to review the changes which impact your system-related operations. We hope this information will assist you in complying with the Federal requirements as it is your Agency's

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responsibility to insure that whatever procurement methodology is applied fully satisfies the Federal requirements.

Please do not hesitate to contact this office if we can be of further assistance. Our Regional APD Coordinator is Karen Bowden and she can be reached at 609-259-5081.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia Dombroski".

PATRICIA DOMBROSKI
Acting Regional Administrator
Mid-Atlantic Region

cc: Chris Beavers, FNS HQ
J. Weingart (L. Shelden)
Mark Grayboyes, ACF, DHHS